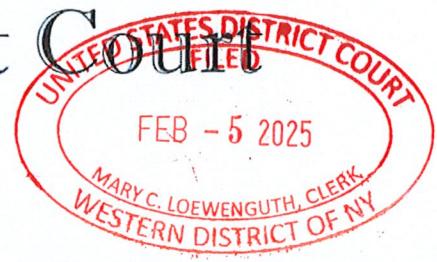


United States District Court

for the
Western District of New York

United States of America

v.

Case No. 25-mj-5004

ANDIYER EDUARDO CON YUCUTIE

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of January 25, 2025, in the County of Niagara, in the Western District of New York, the defendant, **Andiyer Eduardo Con Yucutie**, an alien who previously had been deported and removed from the United States on or about July 17, 2024, was found in the United States of America, without having obtained the express consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to the United States.

All in violation of Title 8, United States Code, Section 1326(a).

This Criminal Complaint is based on these facts:

Continued on the attached sheet.

Complainant's signature

WILLIAM J. SCHOENROCK
ENFORCEMENT OFFICER
U.S. CUSTOMS AND BORDER PROTECTION

Printed name and title

Sworn to before me and signed telephonically.

Date: February 5, 2025

Judge's signature

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE

Printed name and title

City and State: Buffalo, New York

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

WILLIAM J. SCHOENROCK, being duly sworn deposes and states:

I. INTRODUCTION

1. I am an Enforcement Officer with United States Customs and Border Protection (“CBP”), within the Department of Homeland Security (“DHS”), formerly a Senior Inspector with the Immigration and Naturalization Service and have been so employed in immigration law enforcement for the past 32 years. In such capacity, my duties include investigating individuals suspected of violating federal immigration laws and other related federal statutes.

2. As part of my current duties, I have become involved in an investigation of suspected violation of Title 8, United States Code, Section 1326(a).

3. I make this affidavit in support of the annexed criminal complaint charging Andiyer Eduardo CON YUCUTIE, hereinafter referred to as “Yucutie,” an alien, not a citizen or national of the United States, born in 2000, in Guatemala, with being found in the United States without the expressed consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security, after having been deported or removed from the United States, in violation of Title 8, United States Code, Section 1326(a).

4. This affidavit is being submitted for the limited purpose of securing a Criminal Complaint. I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Yucutie did knowingly violate Title 8, United States Code, Section 1326(a).

II. PROBABLE CAUSE

5. At approximately 4:51 a.m. on January 25, 2025, at the Lewiston Bridge port of entry in Lewiston, New York, in the Western District of New York, officers of U.S. Customs and Border Protection encountered Yucutie. Yucutie was traveling in a vehicle bearing State of Ohio registration, containing three individuals that had inadvertently entered onto the bridge toward Canada. The occupants did not enter Canada and proceeded to CBP primary inspection. During primary inspection Yucutie was unable to provide evidence of citizenship and, as part normal procedure, was escorted to secondary for further inspection.

6. CBP Officer D. Wesoloski commenced the secondary inspection and conducted an electronic search of Yucutie's fingerprints in FBI and immigration databases to verify his identity and any immigration history he may have in the United States. The fingerprint search revealed that Yucutie was an identical biometric match to FBI number 3CLTMXXXX and immigration fingerprint identification number 13616157XXX. Records associated to the indexed FBI number and the immigration fingerprint identification number revealed that Yucutie was arrested by U.S. Border Patrol agents in Arizona in May 2024.

The FBI and immigration fingerprint identification records referenced alien file number A221 016 XXX.

7. Immigration electronic records associated to the alien file number confirmed that Yucutie was ordered removed from the United States by way of Expedited Removal and was physically deported to Guatemala on July 17, 2024. Yucutie's removal order was a consequence of having entered the United States unlawfully.

8. Your affiant, on February 3, 2025, received electronically from the National Records Center copies of deportation documents from alien file number A221 016 XXX. Included were immigration forms I-860 Order of Expedited Removal, and I-296 Notice to Alien Removed/Deported Verification. Immigration form I-296 contained Yucutie's photograph, right index fingerprint impression and signature verifying his physical deportation to Guatemala on July 17, 2024. Immigration form I-296 provided a warning to Yucutie that he is prohibited from entering, attempting to enter, or being found in the United States without the express consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security.

9. A review of electronic immigration benefit records and a review alien file A221 016 XXX failed to reveal that Yucutie had applied for or received requisite permission from the Attorney General or the Secretary for the Department of Homeland Security to reenter the United States.

WHEREFORE, I respectfully submit the foregoing facts to establish probable cause to believe that on January 25, 2025, Andiyer Eduardo Con Yucutie, an alien, was found in

the United States after having been previously deported or removed from the United States, without the requisite permission from the Attorney General of the United States or the Secretary for the Department of Homeland Security, in violation of Title 8, United States Code Section 1326(a).

William J. Schoenrock

WILLIAM J. SCHOENROCK
Enforcement Officer
U.S. Customs and Border Protection

Sworn to and subscribed telephonically
this 5 day of February, 2025.

Michael J. Roemer

HONORABLE MICHAEL J. ROEMER
United States Magistrate Judge